

REMARKS/ARGUMENTS

In response to the Office Action mailed May 15, 2003, Applicants amend their application and request reconsideration in view of the amendments and the following remarks. In the amendment claims 37, 43, and 45 were amended, claim 44 was canceled and no claims were added so that claims 37-43 and 45-46 are currently pending. No new matter has been introduced.

Claims 43 and 45 were objected to for a minor informality. Accordingly, Applicants have amended the claims in accordance with the Examiner's instructions.

Claims 37-40 and 46 were rejected as being anticipated by U.S. Patent No. 5,993,481 to Marcade et al. (Marcade). This rejection is respectfully traversed.

Marcade discloses modular bifurcated ultraluminal grafts and methods for delivering and assembling. The modular graft systems of Marcade comprises a primary graft, a base member, and first and second grafts. The primary graft includes a main tapered portion and an annular sleeve. The base member includes a hollow, generally y-shaped structure. The first and second grafts each include a single stent and they may be tapered.

Anticipation exists only if all of the elements of the claimed invention are present in a system or method disclosed, expressly or inherently, in a single prior art reference. Therefore, if it can be shown that there is one difference between the claimed invention and what is disclosed in the single reference, there can be no anticipation.

The present invention as claimed in independent Claims 37 and 46 are directed to graft systems. The graft system of claim 37 comprises a one-piece tubular graft component having three portions. The middle portion includes a plurality of independent gripping stents configured to prevent migration of the graft. The graft system of claim 46 includes first and second one-piece graft segments.

Marcade fails to disclose it even remotely suggest a one-piece structure. Marcade discloses a modular system, which by definition means multiple pieces.

Marcade's graft includes three distinct elements as described above. In the claimed invention, the graft component is a one-piece structure having by name three regions or portions. In other words, the graft material is one-piece. In addition, each section or element of Marcade's graft comprises an individual stent. The system of claim 37 comprises a plurality of independent gripping stents.

Given that there is at least one difference between the claimed invention and one cited reference, there can be no anticipation. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 41-45 were rejected as being unpatentable over Marcade in view of U.S. Patent No. 6,123,722 to Fogarty et al. (Fogarty). This rejection is respectfully traversed.

U.S. Patent No. 6,123,722 to Fogarty et al. discloses stents and stent-grafts for the treatment of aneurysms. Specifically, Fogarty discloses prosthetic modules, which may be selectively combined to form a composite prosthesis. Also disclosed is a delivery catheter which comprises a tubular cover and a shaft coaxially positioned in the cover. The catheter also comprises a plurality of runners and a nosecone.

Fogarty, as the Examiner suggests, does disclose a bellows like structure. However, Fogarty fails to disclose or even remotely suggest the structure as claimed in independent claim 37. Therefore, neither reference, whether taken alone or in combination, teaches or discloses all of the claimed elements. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 37-46 were rejected as being unpatentable over Fogarty in view of Marcade. This rejection is respectfully traversed.

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness;

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the

art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicants' disclosure. *In re Vaeck*, 947 F.2d,488,20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - §2143.03 for decisions pertinent to each of these criteria.

For the reasons set forth above, Applicants respectfully submit that the references, whether taken alone or in combination, fail to disclose or suggest the claimed invention. In addition, there is no motivation to combine the references. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,



Carl J. Evens
Attorney for Applicant
Reg. No. 33,874

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
Dated: August 15, 2003
732-524-2518